REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. This amendment is in response to the Office Action mailed August 20, 2008. Claims 1-36 were rejected. Claims 37-55 were previously cancelled without prejudice. Claims 7, 8, 13 and 22 have been cancelled. Claims 56-59 have been added.

Claim Rejections – 35 U.S.C. §103:

Claims 1, 5, 10, 14 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Evans (U.S. Patent No. 5,924,074) in view of Walter et al. (U.S. Patent App. No. 2003/0154110 A1) and in further view of Penny et al. (U.S. Patent App. No. 2002/0082870 A1).

Claims 16 and 20-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Evans (U.S. Patent No. 5,924,074; hereinafter "Evans") in view of Walter et al. (U.S. Patent App. No. 2003/0154110 A1; hereinafter "Walter") in further view of Penny et al. (U.S. Patent App. No. 2002/0082870 A1; hereinafter "Penny") and in further view of White et al. (U.S. Patent App. No. 2004/0019501 A1; hereinafter "White").

General Argument

In a general sense, the prior art documents relied upon by the Examiner all have one goal in common: to move medical documents in a manner that increases availability and access of medical information to medical professionals. Evans is directed toward a medical records system that creates and maintains all patient data electronically. Walter is directed toward a wireless handheld device that can provide medical professionals access to and facilitate modification of medical information stored within a health care information center. Penny is directed toward a system for displaying medical records from a plurality of sources. White is directed toward a system for scheduling, tracking and providing the status of medical patient cases undergoing a medical testing process so medical professionals can manage that testing process.

The present invention is directed toward a system for managing and facilitating insurance coding of medical records for billing purposes where access to the medical records is restricted and the medical records are not altered. Insurance coding or "medical coding" is a process that is

only indirectly related to health care. Insurance coding involves assigning a specific insurance code to a specific medical diagnosis or treatment or procedure. The insurance codes are required by insurance companies for billing purposes, but are not used by medical professionals for health care purposes. Medical coders are personnel that assign the specific insurance codes to a claim form that is submitted to the insurance companies. The claim forms are separate and distinct from any medical records used by medical professionals and they are only used for billing purposes. The specific insurance codes provided on the claim forms are evaluated by insurance companies before a medical professional is paid for the medical services provided. Also, the vast majority of insurance coding personnel are not medical professionals. They can be certified in various insurance coding systems, but they do not interact directly with any patients for medical purposes.

The general differences between the prior art and the present invention demonstrate the patentably distinct nature of the present invention. The prior art increases access to medical documents while the present invention restricts and controls access to medical documents. The prior art facilitates the dissemination and updating of medical documents while the present invention limits use of the medical documents and does not allow any alterations to those original medical documents. The prior art deals with management of medical information while the present invention deals with management of the insurance coding process or the insurance billing process. The prior art is directed toward assisting medical professionals while the present invention intends to aid medical billing personnel, also known as insurance coders.

These differences as explained sufficiently demonstrate the patentably distinct nature of the present invention because the prior art does not teach limited, controlled access to medical information by non-medical personnel, nor facilitating the process of insurance coding. However, we will examine individual claims in more detail.

Independent Claim 1

Walter teaches use of a handheld wireless device that facilitates access to and modification of medical information for a specified patient. *See, e.g.*, Walter [0026]. Walter specifies that information can be accessed from a central depository of medical information and that patient medical information can be altered within that central depository, all by the use of the handheld wireless device. Walter describes messages that are sent between the handheld wireless device

and the central depository as "code" or coded messages. *See, e.g.,* Walter [0028]. Walter deals entirely with medical information that is the same as the original medical source documents described in the present invention.

Claim 1 provides for "allowing the medical coder to electronically code the medical source document to create coded medical information," which is directed toward the actual process of insurance coding performed by an insurance coder. The resultant "coded medical information" is separate and distinct from the original medical source document and does not represent a change of the medical information. In fact, no change to the original medical information is possible under the present invention. Thus, this coded information for insurance purposes is separate and distinct from that described by Walter.

Claim 1 further includes "transmitting the coded medical information." Similarly, this "coded medical information" is separate and distinct from the original medical source document and does not change the medical information. Again, this coded information is separate and distinct from that described by Walter.

Evans teaches a medical records system that creates and maintains all patient data electronically. Specifically, patient data may be stored in a long-term archive or in a temporary cache, which is used for quick access to medical records, and a data manager may group all data associated with a specified patient. *See, e.g.,* Evans, col. 9, lines 15-37.

As amended, claim 1 provides for "distributing medical source documents to the medical coder using a plurality of categorized work pools and a plurality of prioritized work queues," which is directed toward being able to arrange medical documents in a specific, efficient order before medical coding takes place. Evans does not teach arranging any medical data in a specific order, just grouping them together. Thus, Evans does not teach this claim limitation.

Walter teaches the ability of a user of the handheld wireless device to create or modify "orders," including the ability to "associate diagnoses for billing purposes, and to select billing modifiers." *See*, Walter [0040]. As described in Walters, this information is exactly the information that would be provided by the medical professional in the "medical source document" described in the current claims.

As amended, claim 1 provides for the creation of "coded medical information that includes coded medical billing information," which describes the insurance coding information created by

medical insurance coders using the original medical source documents provided by the medical professionals. Walters does not teach this type of billing information. Walters discusses the ability of a medical professional to provide or modify billing information. This billing information provided by the medical professionals is the "raw material" that is managed and used to create the "coded medical billing information" in the present claims.

Independent Claim 5

Evans teaches the transformation or conversion of data from one data system to another by a converter. The converter may be a scanner to scan physical data or may provide an interface that allows the transfer of medical data. *See*, Evans, col. 12, lines 35-53.

Claim 5 provides for "facilitating the electronic creation of coded medical information," which is directed toward the actual process of insurance coding performed usually by an insurance coder. The resultant "coded medical information" is separate and distinct from the medical information described in Evans. Moreover, the process of converting data in Evans is not similar to the process of creating insurance coded information. The conversion process in Evans is completely automated, while the "conversion" process in the present invention requires specific software and the manual direction of an insurance coder. Thus, this conversion process is separate and distinct from that described by Evans.

Walter teaches use of a handheld wireless device that facilitates access to and modification of medical information for a specified patient. *See, e.g.*, Walter [0026]. Walter specifies that information can be accessed from a central depository of medical information and that patient medical information can be altered within that central depository, all by the use of the handheld wireless device. Walter describes messages that are sent between the handheld wireless device and the central depository as "code" or coded messages. *See, e.g.,* Walter [0028]. Walter deals entirely with medical information that is exactly the same as the original medical source documents described in the present invention.

Claim 5 further provides for "transmitting the coded medical information." This "coded medical information" is separate and distinct from the original medical source document because it is the insurance coding information, or insurance billing information. Thus, this coded information is separate and distinct from that described by Walter.

Evans teaches a medical records system that creates and maintains all patient data electronically. Specifically, patient data may be stored in a long-term archive or in a temporary cache, which is used for quick access to medical records, and a data manager may group all data associated with a specified patient. *See, e.g.,* Evans, col. 9, lines 15-37.

As amended, claim 5 provides for "distributing medical source documents to the medical coder using a plurality of categorized work pools and a plurality of prioritized work queues," which is directed toward being able to arrange medical documents in a specific, efficient order. Evans does not teach arranging any medical data in a specific order, just grouping them together by patient. Thus, Evans does not teach this claim limitation.

Dependent Claim 9

Walter teaches the ability of a user of the handheld wireless device to create or modify "orders," including the ability to "associate diagnoses for billing purposes, and to select billing modifiers." *See*, Walter [0040]. As described in Walters, this information is exactly the information that would be provided by the medical professional in the "medical source document" described in the current invention.

As amended, claim 9 provides for the creation of "coded medical information that includes coded medical billing information," which describes the insurance coding information created by insurance coders using the original medical source documents provided by the medical professionals. Walters does not teach this type of billing information. Walters discusses the ability of a medical professional to provide or modify billing information. This billing information provided by the medical professionals is the "raw material" that is managed and used to create the "coded medical billing information" in the present invention.

Independent Claim 10

Evans teaches the transformation or conversion of data from one data system to another by a converter. The converter may be a scanner to scan physical data or may provide an interface that allows the transfer of medical data. *See*, Evans, col. 12, lines 35-53.

Walter teaches the ability of a user of the handheld wireless device to create or modify "orders," including the ability to "associate diagnoses for billing purposes, and to select billing

modifiers." *See*, Walter [0040]. As described in Walters, this information is exactly the information that would be provided by the medical professional in the "medical source document" described in the current invention.

Claim 10 provides for "facilitating the creation of processed medical data that includes coded medical billing information," which is directed toward the actual process of insurance coding performed by an insurance coder. The resultant "processed medical data" is separate and distinct from the medical information described in Evans. Moreover, the process of converting data in Evans is not similar to the process of creating insurance coded information. The conversion process in Evans is completely automated, while the "conversion" process in the present invention requires specific software and the direction of an insurance coder. Thus, this conversion process is separate and distinct from that described by Evans.

As amended, claim 10 provides for the creation of "processed medical data that includes coded medical billing information," which describes the insurance coding information created by insurance coders using the original medical source documents provided by the medical professionals. Walters does not teach this type of billing information. Walters discusses the ability of a medical professional to provide or modify billing information. This billing information provided by the medical professionals is the "raw material" that is managed and used to create the "coded medical billing information" in the present invention.

Walter teaches use of a handheld wireless device that facilitates access to and modification of medical information for a specified patient. *See, e.g.*, Walter [0026]. Walter specifies that information can be accessed from a central depository of medical information and that patient medical information can be altered within that central depository, all by the use of the handheld wireless device. Walter describes messages that are sent between the handheld wireless device and the central depository as "code" or coded messages. *See, e.g.,* Walter [0028]. Walter deals entirely with medical information that is exactly the same as the original medical source documents described in the present invention.

Claim 10 further provides for "transmitting the processed medical data." This "processed medical data" is separate and distinct from the original medical source document because it is the insurance coding information, or insurance billing information. Thus, this coded information is separate and distinct from that described by Walter.

Evans teaches a medical records system that creates and maintains all patient data electronically. Specifically, patient data may be stored in a long-term archive or in a temporary cache, which is used for quick access to medical records, and a data manager may group all data associated with a specified patient. *See, e.g.,* Evans, col. 9, lines 15-37.

As amended, claim 10 provides for "distributing medical source documents to the medical coder using a plurality of categorized work pools and a plurality of prioritized work queues," which is directed toward being able to arrange medical documents in a specific, efficient order. Evans does not teach arranging any medical data in a specific order, just grouping them together. Thus, Evans does not teach this claim limitation.

Independent Claim 14

Evans teaches a medical records system that creates and maintains all patient data electronically. Specifically, patient data may be stored in a long-term archive or in a temporary cache, which is used for quick access to medical records, and a data manager may group all data associated with a specified patient. *See, e.g.,* Evans, col. 9, lines 15-37. Evans also teaches the transformation or conversion of data from one data system to another by a converter. The converter may be a scanner to scan physical data or may provide an interface that allows the transfer of medical data. *See*, Evans, col. 12, lines 35-53.

As amended, claim 14 provides for "a plurality of coding queues, including a plurality of categorized work pools and a plurality of prioritized work queues," which is directed toward being able to arrange medical documents in a specific, efficient order. Evans does not teach arranging any medical data in a specific order, just grouping them together. Thus, Evans does not teach this claim limitation.

Claim 14 provides for creation of "coded medical information," which is directed toward the actual process of insurance coding performed by an insurance coder. The resultant "coded medical information" is separate and distinct from the medical information described in Evans. Moreover, the process of converting data in Evans is not similar to the process of creating insurance coded information. The conversion process in Evans is completely mechanical, while the "conversion" process in the present invention requires specific software and the direction of an

insurance coder. Thus, this conversion process is separate and distinct from that described by Evans.

Walter teaches the ability of a user of the handheld wireless device to create or modify "orders," including the ability to "associate diagnoses for billing purposes, and to select billing modifiers." *See*, Walter [0040]. As described in Walters, this information is exactly the information that would be provided by the medical professional in the "medical source document" described in the current invention.

As amended, claim 14 provides for the creation of "coded medical information that includes coded medical billing information," which describes the insurance coding information created by insurance coders using the original medical source documents provided by the medical professionals. Walters does not teach this type of billing information. Walters discusses the ability of a medical professional to provide or modify billing information. This billing information provided by the medical professionals is the "raw material" that is managed and used to create the "coded medical billing information" in the present invention.

Independent Claim 17

Evans teaches a medical records system that creates and maintains all patient data electronically. Specifically, patient data may be stored in a long-term archive or in a temporary cache, which is used for quick access to medical records, and a data manager may group all data associated with a specified patient. *See, e.g.,* Evans, col. 9, lines 15-37.

As amended, claim 17 provides for "distributing medical source documents to the medical coder using a plurality of categorized work pools and a plurality of prioritized work queues," which is directed toward being able to arrange medical documents in a specific, efficient order. Evans does not teach arranging any medical data in a specific order, just grouping them together. Thus, Evans does not teach this claim limitation.

Evans teaches the transformation or conversion of data from one data system to another by a converter. The converter may be a scanner to scan physical data or may provide an interface that allows the transfer of medical data. *See*, Evans, col. 12, lines 35-53.

Claim 17 provides for creating "coded medical information," which is directed toward the actual process of insurance coding performed by an insurance coder. The resultant "coded

medical information" is separate and distinct from the medical information described in Evans. Moreover, the process of converting data in Evans is not similar to the process of creating insurance coded information. The conversion process in Evans is completely mechanical, while the "conversion" process in the present invention requires specific software and the direction of an insurance coder. Thus, this conversion process is separate and distinct from that described by Evans.

Walter teaches the ability of a user of the handheld wireless device to create or modify "orders," including the ability to "associate diagnoses for billing purposes, and to select billing modifiers." *See*, Walter [0040]. As described in Walters, this information is exactly the information that would be provided by the medical professional in the "medical source document" described in the current invention.

As amended, claim 17 provides for the creation of "coded medical information that includes coded medical billing information," which describes the insurance coding information created by insurance coders using the original medical source documents provided by the medical professionals. Walters does not teach this type of billing information. Walters discusses the ability of a medical professional to provide or modify billing information. This billing information provided by the medical professionals is the "raw material" that is managed and used to create the "coded medical billing information" in the present invention.

As amended, claim 17 provides for the validation of "codes entered or selected by the medical coder to determine whether the medical codes are valid." This validation step for insurance coded information is not contained in the prior cited by the Office Action.

Independent Claim 20

Evans teaches a medical records system that creates and maintains all patient data electronically. Specifically, patient data may be stored in a long-term archive or in a temporary cache, which is used for quick access to medical records, and a data manager may group all data associated with a specified patient. *See, e.g.,* Evans, col. 9, lines 15-37.

As amended, claim 20 provides for "distributing medical source documents to the medical coder using a plurality of categorized work pools and a plurality of prioritized work queues," which is directed toward being able to arrange medical documents in a specific, efficient order.

Evans does not teach arranging any medical data in a specific order, just grouping them together. Thus, Evans does not teach this claim limitation.

Evans teaches the transformation or conversion of data from one data system to another by a converter. The converter may be a scanner to scan physical data or may provide an interface that allows the transfer of medical data. *See*, Evans, col. 12, lines 35-53.

Claim 20 provides for creating "coded medical information," which is directed toward the actual process of insurance coding performed by an insurance coder. The resultant "coded medical information" is separate and distinct from the medical information described in Evans. Moreover, the process of converting data in Evans is not similar to the process of creating insurance coded information. The conversion process in Evans is completely mechanical, while the "conversion" process in the present invention requires specific software and the direction of an insurance coder. Thus, this conversion process is separate and distinct from that described by Evans.

Walter teaches the ability of a user of the handheld wireless device to create or modify "orders," including the ability to "associate diagnoses for billing purposes, and to select billing modifiers." *See*, Walter [0040]. As described in Walters, this information is exactly the information that would be provided by the medical professional in the "medical source document" described in the current invention.

As amended, claim 20 provides for the creation of "coded medical information that includes coded medical billing information," which describes the insurance coding information created by insurance coders using the original medical source documents provided by the medical professionals. Walters does not teach this type of billing information. Walters discusses the ability of a medical professional to provide or modify billing information. This billing information provided by the medical professionals is the "raw material" that is managed and used to create the "coded medical billing information" in the present invention.

Independent Claim 29

Evans teaches a medical records system that creates and maintains all patient data electronically. Specifically, patient data may be stored in a long-term archive or in a temporary

cache, which is used for quick access to medical records, and a data manager may group all data associated with a specified patient. *See, e.g.,* Evans, col. 9, lines 15-37. Evans also teaches the transformation or conversion of data from one data system to another by a converter. The converter may be a scanner to scan physical data or may provide an interface that allows the transfer of medical data. *See*, Evans, col. 12, lines 35-53.

As amended, claim 29 provides for "a plurality of coding queues having a plurality of categorized work pools and a plurality of prioritized work queues," which is directed toward being able to arrange medical documents in a specific, efficient order. Evans does not teach arranging any medical data in a specific order, just grouping them together. Thus, Evans does not teach this claim limitation.

Evans teaches the transformation or conversion of data from one data system to another by a converter. The converter may be a scanner to scan physical data or may provide an interface that allows the transfer of medical data. *See*, Evans, col. 12, lines 35-53.

Claim 29 provides for creating "coded medical information," which is directed toward the actual process of insurance coding performed by an insurance coder. The resultant "coded medical information" is separate and distinct from the medical information described in Evans. Moreover, the process of converting data in Evans is not similar to the process of creating insurance coded information. The conversion process in Evans is completely mechanical, while the "conversion" process in the present invention requires specific software and the direction of an insurance coder. Thus, this conversion process is separate and distinct from that described by Evans.

Walter teaches the ability of a user of the handheld wireless device to create or modify "orders," including the ability to "associate diagnoses for billing purposes, and to select billing modifiers." *See*, Walter [0040]. As described in Walters, this information is exactly the information that would be provided by the medical professional in the "medical source document" described in the current invention.

As amended, claim 29 provides for the creation of "coded medical information that includes coded medical billing information," which describes the insurance coding information created by insurance coders using the original medical source documents provided by the medical professionals. Walters does not teach this type of billing information. Walters discusses the

ability of a medical professional to provide or modify billing information. This billing information provided by the medical professionals is the "raw material" that is managed and used to create the "coded medical billing information" in the present invention.

As amended, claim 29 provides for "a medical code validation module that checks the codes entered or selected by the medical coder to determine whether the medical codes are valid." This validation step for insurance coded information is not contained in the prior cited by the Examiner.

Dependent Claims 56-59

As added, claims 56-58 provide for the validation of "codes entered or selected by the medical coder to determine whether the medical codes are valid." This validation step for insurance coded information is not contained in the prior cited by the Office Action.

As added, claim 59 provides for "a medical code validation module that checks the codes entered or selected by the medical coder to determine whether the medical codes are valid." This validation step for insurance coded information is not contained in the prior cited by the Office Action.

Legal Arguments

It is well established that "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious." MPEP §2143.01 (MPEP 8th Ed. Rev. 4, 2006) (citing *In re Ratti*, 270 F.2d 810 (CCPA 1959) (holding "the suggested combination of references would require a substantial reconstruction and redesign of the element shown in the primary reference as well as a change in the basic principle under which the primary reference construction was designed to operate." *Id.* at 813)). Moreover, prior art references must be considered in their entirety, including portions that would lead away from the claimed invention. MPEP §2141.02 (MPEP 8th Ed. Rev. 4, 2006) (citing *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540 (Fed.Cir. 1983)). "It is simply impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation

of what such a reference suggests to one of ordinary skill in the art." *In re Wesslau*, 353 F.2d 238, 241 (Fed.Cir. 1993). In short, one of ordinary skill in the art would not have thought to combine the two references because the resulting combination simply would not function as contemplated by the teachings of the prior art. The combination of Evans and Walter would not facilitate medical insurance coding, and indeed, does not even contemplate the process of medical insurance coding. This is particularly compelling when examining the teachings of the prior art as a whole in view of the knowledge of one of ordinary skill in the art at the time the invention was made.

Accordingly, because one of ordinary skill in the art would not have thought to modify the teachings of Evans with the teachings of Walter for medical insurance coding purposes or to reach the claim limitations of claims 1, 5, 10, 14, 17, 20 and 29, the Office Action has not made out a prima facie case of obviousness with respect to those claims. As such, Applicant respectfully submits that claims 1, 5, 10, 14, 17, 20 and 29 are in condition for allowance. At least because claims 2-4, 6, 9, 11, 12, 15, 16, 18, 19, 21, 23-28, 30-36 and 56-59 depend from otherwise allowable claims, Applicant also asserts that these claims are also in condition for allowance.

CONCLUSION

In light of the above, Applicant respectfully submits that pending claims 1-6, 9-12, 14-21, 23-36 and 56-59 are now in condition for allowance. Therefore, Applicant requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. If any impediment to the allowance of these claims remains after entry of this Amendment, the Examiner is strongly encouraged to call Steve M. Perry at (801) 566-6633 so that such matters may be resolved as expeditiously as possible.

Fees in the amount of $555.00 will be submitted electronically pursuant to 37 C.F.R. § 1.17(a)(1), for a three month extension of time pursuant to 37 C.F.R. § 1.136. While 4 claims were added (claims 56-59), no independent claims were added, 4 claims were cancelled (claims 7, 8, 13 and 22), and 19 claims were previously cancelled (claims 37-55). Therefore, no additional fee is due.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 20th day of February, 2009.

Respectfully submitted,

/Steve M. Perry/

Steve M. Perry
Registration No. 45357

THORPE NORTH & WESTERN, LLP
Customer No. 20,551
P.O. Box 1219
Sandy, Utah 84091-1219
Telephone: (801) 566-6633

SMP/sbh
121262